

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE 650 FIFTH AVENUE AND :
RELATED PROPERTIES :
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JUL 11 2013

08 Civ. 10934 (KBF)
and all member and
related cases

ORDER

KATHERINE B. FORREST, District Judge:

As stated on the record at the July 10, 2013, status conference in the above-captioned matter, it is hereby

ORDERED:

1. Defendants' motion to compel production of documents withheld by the Government on the bases of law enforcement privilege or national security classification or, in the alternative, to produce a detailed privilege log, is DENIED. The Court finds that the Government has satisfied its burden of showing that the law enforcement privilege applies to the documents in question in this case, as outlined by the Second Circuit in In re The City of New York, 607 F.3d 923 (2d Cir. 2010). Further, the Court has reviewed a sampling of the documents in camera according to the procedures set out in City of New York, and finds that the "public interest in nondisclosure" outweighs "the need of a particular litigant for access to the privileged information," and that defendants have not demonstrated a "compelling need" that would overcome the "strong presumption" against lifting the

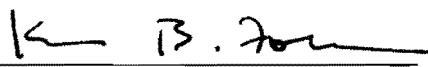
law enforcement privilege. See id. at 950 (citing In re Sealed Case, 856 F.2d 268, 271-72 (D.C. Cir. 1988).

2. Not later than July 31, 2013, the Government shall submit a letter attesting that the sample provided to the court in connection with its ex parte, in camera review of defendants' law enforcement and classification privilege motion was representative of the production as a whole. If the government cannot make this representation, not later than July 31, 2013, it shall submit an additional set of representative documents for ex parte, in camera review.
3. Not later than July 31, 2013, the Government shall produce all documents required to be produced via the parties' agreed-upon sampling methodology. Not later than August 2, 2013, defendants shall submit a letter detailing which documents they have received as part of this sampling and which have not been provided.
4. The parties shall appear for a status conference on August 7, 2013, at 9:00 a.m.
5. Not later than August 9, 2013, the Government shall produce all remaining electronically stored information subject to production in this matter (i.e., relevant and not privileged or classified). Failure to meet this deadline may result in an adverse jury instruction.
6. Not later than September 9, 2013, the Government shall submit a letter broadly describing the types of documents that were provided to the court

in connection with its ex parte, in camera review of defendants' law enforcement and classification privilege motion.

SO ORDERED.

Dated: New York, New York
July 10, 2013



KATHERINE B. FORREST
United States District Judge